

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

Edward Butowsky,

Plaintiff,

v.

Michael Gottlieb, et al.,

Defendants

Case No. 4:19-cv-00180-ALM-kpj

**RESPONSE IN OPPOSITION TO MOTION TO DISMISS
and MOTION FOR EXTENSION OF TIME**

NOW COMES Edward Butowsky, the Plaintiff, responding in opposition to the MOTION TO DISMISS AND SUPPORTING MEMORANDUM FOR DEFENDANTS GOTTLIEB, GOVERNSKI, AND BOIES SCHILLER FLEXNER LLP (“MOTION TO DISMISS”)(Doc. No. 41), further moving the Court to grant an extension of time:

The Defendants filed their MOTION TO DISMISS on June 21, 2019, and the Plaintiff's response was due on July 8, 2019. The undersigned mistakenly thought the Plaintiff's response was not due until July 15, 2019, *i.e.*, the deadline for filing an amended complaint as of right. *See* Fed. R. Civ. P. 15(a)(1)(B) (plaintiff has 21 days to amend complaint after filing of answer or motion to dismiss). The Plaintiff intended to file and still intends to file an amended complaint by July 15, 2019. That amended complaint will not only address some of the issues raised in the motion to dismiss, it will render the motion itself moot. *See, e.g.*, MEMORANDUM ADOPTING REPORT AND RECOMMENDATION OF UNITED STATES MAGISTRATE JUDGE, ROA V. CITY OF DENISON, Case No. 4:18-CV-168,

2019 WL 1375177 (E.D. Tex. Mar. 27, 2019) (motion to dismiss rendered moot by amended complaint). Accordingly, any substantive response to the MOTION TO DISMISS at this stage would be a waste of the Court's and the parties' time and resources.

The Defendants' reliance on *Sanchez v. Ocwen Loan Servicing, LLC*, 4:16-CV-397, 2016 WL 4265161 (E.D. Tex. Aug. 12, 2016) is badly misplaced. In that case, the defendants filed a motion to dismiss on June 22, 2016 and the plaintiff had not responded as of August 12, 2016. In this case, on the other hand, the undersigned learned of his scheduling error last night and immediately sent an email to Defendants' Counsel explaining the reason for his mistake. The undersigned asked Defendants' Counsel if they would object to a request for a brief extension, but counsel has not responded as of the filing of this document.¹

Insofar as the Defendants will not be prejudiced by a one-week extension of time to respond to their Motion to Dismiss, the Plaintiff moves the Court to grant such an extension.

Respectfully submitted,

/s/ Ty Clevenger

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Attorney for Plaintiff Edward Butowsky

¹ As witnessed by his electronic signature on this document, Ty Clevenger declares under penalty of perjury under the laws of the United States that this statement is true and correct.

CERTIFICATE OF SERVICE

I certify that a copy of this document was filed electronically with the Court's ECF system on July 10, 2019, which should result in automatic notification to all counsel of record.

/s/ Ty Clevenger_____

Ty Clevenger